

GENERAL LICENSE AGREEMENT FOR MULTIPLE USE TRAIL

THIS GENERAL LICENSE AGREEMENT FOR MULTIPLE USE TRAIL ("Agreement") is made and entered into as of the 19th day of February 2008, by and between UTAH TRANSIT AUTHORITY, a public transit district organized under Title 17A, Chapter 2, Part 10, Utah Code Annotated 1953, as amended (hereinafter "UTA"), and DRAPER CITY CORPORATION, a municipal corporation of the State of Utah (hereinafter "Licensee") that desires to obtain from UTA a license for use of a portion of the below-defined railroad right of way. UTA and Licensee may hereinafter be collectively referred to as "parties," and either may be individually referred to as "party," all as governed by the context in which such words are used.

RECITALS

WHEREAS, UTA is the owner of the Right of Way (as defined below) upon which UTA operates a portion of a light rail transportation system;

WHEREAS, Licensee desires to construct a trail for use by the public over the below-specified portion of the Right of Way according to the terms, conditions and limitations specified below; and

WHEREAS, UTA is supportive of alternate transportation modes, such as pedestrian and bicycle trails and, subject to the terms and conditions of this Agreement, is willing to grant a license allowing for the construction and operation of the trail, in accordance with the terms and conditions of the Master Interlocal Agreement Regarding Fixed Guideway Systems Located Within Railroad Corridors, dated February 13, 2004 (the "Master Interlocal Agreement") and executed by the Parties.

WHEREAS, The Right of Way is the potential site for a proposed extension of the TRAX system in accordance with the Wasatch Front Regional Council's Long Range Transportation Plan.

WHEREAS, parties acknowledge that the future construction of a fixed guideway transit system may require relocation, reconfiguration or removal of the Trail and, as the consideration for the license granted herein, Licensee has agreed to perform such work (if necessary) at its own expense, notwithstanding any inconsistent provisions that may have been agreed to in the Master Interlocal Agreement.

AGREEMENT

NOW, THEREFORE, on the stated Recitals, which are incorporated herein by reference, and for and in consideration of the mutual covenants and agreements hereinafter set forth, the mutual benefits to the parties to be derived herefrom, and for other valuable consideration, the receipt and sufficiency of which the parties acknowledge, it is hereby agreed as follows:

ARTICLE 1. DEFINITIONS

In addition to other defined terms set forth above and below, and as used throughout this Agreement, the following capitalized terms shall have the meanings indicated below.

"Emergency Access Manager" means the person or office responsible for controlling access to the Right of Way. The Emergency Access Manager as of the execution of this Agreement is UTA Property Management at either (801) 231-7679 or (801) 706-1365. UTA may change the designated Emergency Access Manager from time to time by delivery of notice in accordance with Article 22 of this agreement.

"Freight Operator" means the Utah Railway Company, which currently uses a portion of the Right of Way to provide freight service to customers along the Right of Way. "Freight Operator" shall also mean any successor or assignee of the Utah Railway Company or any other railroad operator using the Right of Way to provide freight service.

"Governmental Authority" or "Governmental Authorities" means one or more federal, state, municipal or local governmental bodies or agencies.

"Hazardous Materials" means any pollutants, toxic substances, hazardous wastes, hazardous substances, oils of any kind or in any form (including petroleum, fuel oil, diesel oil, crude oil or any fraction thereof), and any other substances defined in or pursuant to the Resource Conservation and Recovery Act, the Comprehensive Response, Compensation and Liability Act, the Federal Clean Water Act, the Federal Clean Air Act, the Toxic Substances Control Act, or any other federal, state or local environmental law, regulation, ordinance, rule or bylaw, as such are amended from time to time, whether existing as of the date hereof, previously enforced or subsequently enacted.

"Loss" or "Losses" means any and all losses, damages, claims, demands, actions, causes of action, penalties, costs, expenses, court costs, attorneys' fees, amounts paid in settlement, judgments, prejudgment and post judgment interest and any other costs incurred as the result of: (i) loss of or damage to the property of any party or third person; (ii) injury to or death of any party or third person; or (iii) economic loss to a party.

"Multiple Use Trail" means that portion of the Right of Way for which Licensee is obtaining a license to develop a public trail (in accordance with Exhibit "A") for pedestrian, and bike traffic including all hardscaping, landscaping and improvements. Equestrian use of any part of this trail or UTA owned Right of Way is specifically not allowed under this Agreement.

"Right of Way" means the Former Union Pacific Provo Industrial Lead, now known as the UTA TRAX Extension.

"Track" or "Tracks" means any and all tracks, rails, ties, switches, frogs, end of track barricades or bumpers, derail devices, tie plates, spikes, fastenings, drainage structures,

grading, ballast, crossings, subgrade stabilization, tunnels, bridges, trestles, culverts, structures, facilities, leads, spurs, turnouts, tails, sidings, signals, crossing protection devices, catenary systems and wires, conduits, railroad communications systems, poles and all other operating and non-operating railroad or railway appurtenances, whether located on or adjacent to the Right of Way.

"TRAX Control Center" means the radio control room designated by UTA to authorize and monitor the movement of vehicles, individuals and other objects along the Right of Way where the light rail system operates.

"UTA Engineer" means the individual specified or designated as such by UTA. As of the date of this Agreement, the UTA Engineer is Crosby Mecham. UTA Engineer also refers to any designees or successors of Mr. Mecham as may from time to time be designated by UTA, provided that written notice of a change in the UTA Engineer is provided to Licensee as set forth in this Agreement.

"Utility" or "Utilities" means any and all properties, facilities, utilities, crossings, encroachments, lines and other appurtenances of third parties existing from time to time on or about the Right of Way by permissive or prescriptive authority including, but not limited to, pipelines, tube lines, water and gas mains, electrical conduits, wires, fiber optics, communication lines, sewer pipes, overhead wiring and supporting structures and appurtenances and all other structures and facilities

ARTICLE 2. USE OF A PORTION OF RIGHT OF WAY; LICENSE

A. For good and valuable consideration, the receipt of which is hereby acknowledged, and subject to the covenants, conditions and agreements herein contained, UTA hereby grants to Licensee, without any warranty whatsoever, a non-exclusive license (hereinafter the "License") to construct, maintain and use, and to allow the public to use, at Licensee's sole cost and expense, the Multiple Use Trail inside the boundaries of the Right of Way. Licensee shall have no property interest whatsoever in the Right of Way, and Licensee is granted only the License referred to herein. Notwithstanding any suggestion or discussion or provision to the contract the Licensee agrees that equestrian use on any part of this trail or UTA owned Right of Way is not permitted under this agreement and Licensee agrees that it shall not promote equestrian use except as may be specifically provided by subsequent written agreement between Licensee and UTA.

B. The Multiple Use Trail shall be constructed between Highland Drive and the northernmost Geneva Rock Products pit access road crossing of UTA's Right of Way or approximately Milepost Location 766.60 to Milepost Location 777.54 and, all in conformity with Exhibit "A." The License is for the sole purpose of developing the Multiple Use Trail. The Multiple Use Trail shall be used for public pedestrian and bicyclist use and other uses supplementary thereto, including trail maintenance and police patrolling and law enforcement. In addition, UTA agrees to permit an initial equestrian component to the Multiple Use Trail, but shall have the right to reconsider such use from time to time. Licensee shall not allow any other use of the Multiple Use Trail. UTA

expressly reserves the right to prohibit any trail user of the Right of Way which is incompatible with passenger and freight operations conducted in the Right of Way.

C. The rights herein granted to Licensee shall lapse and become void if the construction of the Multiple Use Trail is not commenced within twelve (12) months of the date of execution of this Agreement.

D. Except for areas located adjacent to at-grade road crossings, or as otherwise shown on the attached Exhibit "A," Licensee shall erect and maintain a vinyl-coated chain link fence (or other type and quality of the fencing as may be approved by the UTA Engineer from time to time) separating the Multiple Use Trail from the remainder of the Right of Way. Licensee shall also erect such signage, physical barriers and other protective devices as shown on Exhibit "A," as well as such additional signage, physical barriers and other protective devices as may be reasonably required from time to time by UTA or the Freight Operator.

E. In addition to other conditions and limitations otherwise provided herein, the License shall not be construed as granting Licensee the right to install or to authorize the installation of any pipes, pipelines, sewer or underground structures, or any telegraph, telephone, fiber optics, communication lines, electric power lines or other similar facilities in, upon, over, under, across or along the Right of Way, unless such facilities or improvements are necessary for the Multiple Use Trail. The inclusion of any such facilities in Exhibit "A" or in plans and specifications approved by the UTA Engineer shall not be deemed a waiver of UTA's right to require owners of such proposed facilities to go through the normal application and approval process and to enter into license agreements with UTA and to pay UTA its standard real estate usage charge for Utility crossings of the Right of Way.

ARTICLE 3. SUBORDINATION OF LICENSE TO EXISTING USES OF RIGHT OF WAY

A. The rights granted pursuant to this Agreement shall be subject and subordinate to the prior and continuing right and obligation of UTA to fully use the Right of Way including the right and power of UTA to construct, maintain, repair, renew, use, operate, modify or relocate new or existing Track Improvements upon, along, above or across any or all parts of the Right of Way and other UTA property, all or any of which may be freely done at any time or times by UTA. The grant of license for the Multiple Use Trail is made without covenants of title or quiet enjoyment. UTA makes no warranties, either express or implied or regarding the existence or nonexistence of third party rights which may be superior to the license granted pursuant to this Agreement.

B. Licensee shall, within 90 days after receipt of written notice from UTA, modify or relocate (or, if agreed between the parties, allow UTA to modify or relocate) all or any portion of the Multiple Use Trail as UTA may reasonably designate. Notwithstanding any other agreement entered between the Parties the parties hereby agree that Licensee shall be responsible for any necessary relocation costs. All the terms, conditions and

stipulations herein expressed with reference to the Multiple Use Trail in the location described herein shall, so far as the Multiple Use Trail remains on UTA property, apply to the Multiple Use Trail as modified or relocated pursuant to this section.

C. The forgoing grant is also subject to the outstanding superior rights previously conveyed or granted to third parties by UTA, or its predecessors in interest, and the right of UTA to renew and extend the same.

ARTICLE 4. PLANS AND SPECIFICATIONS

In advance of the commencement of any construction, all general and detailed plans and specifications for the Multiple Use Trail shall have been approved in writing by the UTA Engineer. The plans and specifications delivered to the UTA Engineer shall set out the method and manner of handling the work so as to protect UTA's Right of Way and operations, and the operations of the Freight Operator. The UTA Engineer shall have the right to approve the plans and specifications, or withhold approval with respect to the plans and specifications, such approval not to be unreasonably withheld. Licensee shall cause all such work to be in strict conformity with such approved plans and with Exhibit "A," unless advance written waiver of this requirement is obtained from the UTA Engineer. All additional work to be performed by Licensee subsequent to the initial construction shall also be conducted pursuant to plans and specifications to be reviewed and approved by the UTA Engineer pursuant to the terms and conditions of this paragraph. The parties acknowledge that UTA assumes no responsibility for the design or construction of the Multiple Use Trail. Licensee shall ensure that the design and construction of the Multiple Use Trail is proper and sufficient, and Licensee shall implement any necessary or appropriate safety features or devices. The review of Licensee's plans and specifications as set forth in this Article shall be solely for the purpose of ensuring, to the maximum extent possible, that the Multiple Use Trail does not interfere with the passenger and freight operations conducted in the Right of Way. The review of the plans and specifications as set forth in this Article shall not be construed to be a waiver of any other legal rights UTA may have under this Agreement or otherwise. No review conducted by UTA shall be construed to be a warranty, guarantee or assurance of the adequacy of the Licensee's work (or that of any contractor of Licensee) or the adequacy of the safety measures employed by Licensee (or those of any contractor of Licensee). The review conducted is for UTA's sole benefit and is for no other person's benefit, including that of Licensee.

ARTICLE 5. CONSTRUCTION AND MAINTENANCE OF MULTIPLE USE TRAIL

A. Licensee, at its sole cost and expense, shall perform all grading and shall install all necessary drainage improvements and facilities required in connection with the safe construction and operation of the Multiple Use Trail within the Right of Way. Licensee shall arrange to modify any overhead and/or underground Utilities or other facilities to meet UTA specifications, as determined solely by UTA. Licensee shall not suffer or

permit drainage water to flow or collect upon the Right of Way or other UTA property because of the construction or operation of the Multiple Use Trail. Licensee shall provide adequate passageway for the waters of any runoff, streams, bodies of water and drainage facilities (either natural or artificial, including water from UTA culvert and drainage facilities). Licensee shall ensure that no water is impeded, obstructed, diverted or caused to back up, overflow or damage the Right of Way or other property of UTA or third parties.

B. UTA shall have the right, but not the duty, to observe and inspect any and all construction, installation, maintenance, repair, renewal, modification, reconstruction, relocation and/or removal of the Multiple Use Trail and other work concerning or related to the Multiple Use Trail, and to require safety or other precautions and standards to be met or used during any such work. Licensee and its contractors shall comply with the rules, regulations and instructions of UTA and its representatives with respect to work performed in conjunction with the Multiple Use Trail including, without limitation, those related to the protection of UTA facilities at and in the vicinity of the Multiple Use Trail. The right to inspect work as set forth in this provision shall be solely for the purpose of ensuring, to the maximum extent possible, that the Multiple Use Trail does not interfere with the passenger and freight operations conducted in the Right of Way. The exercise of such right shall not be construed to be a waiver of any other legal rights UTA may have under this Agreement or otherwise. No inspection conducted by UTA shall be construed to be a warranty, guarantee or assurance of the adequacy of the Licensee's work (or that of any contractor of Licensee) or the adequacy of the safety measures employed by Licensee (or those of any contractor of Licensee). The inspection conducted is for UTA's sole benefit and is for no other person's benefit, including that of Licensee.

C. Licensee shall procure any needed property rights, easements, rights of way, franchises, permits or other permission for the construction, installation, maintenance, repair, renewal, modification, reconstruction, relocation and/or removal of the Multiple Use Trail including without limitation those necessary to traverse over and across any public street, road or highway. Licensee assumes all costs and expense related to the acquisition of such rights and shall pay any fees or costs imposed by any Governmental Authority or other entity as the result of the Multiple Use Trail.

D. In the construction, installation, maintenance, repair, renewal, modification, reconstruction, relocation and/or removal of the Multiple Use Trail, Licensee shall take all suitable precautions to prevent any interference with the operation of any Tracks or Utilities including, without limitation, signals, grade crossings, communication lines and catenary systems and wires. If, at any time, the construction, installation, maintenance, repair, renewal, modification, reconstruction, relocation and/or removal of the Multiple Use Trail results in any interference with the operation of the Tracks or any Utility or other facility as now existing or which may hereafter be constructed, Licensee shall, at its sole cost and expense, immediately take such action as may be necessary to eliminate such interference. In the event that the construction, installation, maintenance, repair, renewal, modification, reconstruction, relocation and/or removal of the Multiple Use Trail damages the Tracks or any Utility or other facility, Licensee shall immediately

restore or repair such at Licensee's sole cost and expense. UTA, at its sole option, shall also have the right, without notice to Licensee, to cause the restoration or repair any such Tracks, Utilities or other facilities and seek reimbursement of all reasonable costs incurred in conjunction therewith.

E. The Multiple Use Trail shall be constructed, operated and maintained by Licensee in such a manner as not to be or constitute a hazard. In the construction, installation, maintenance, repair, renewal, modification, reconstruction, relocation and/or removal of the Multiple Use Trail, Licensee, at its sole cost and expense, shall comply with the requirements of all laws, rules, regulations, ordinances or orders of any applicable Governmental Authority. Licensee shall not cause or permit the importation of any Hazardous Materials onto the Right of Way. Licensee shall not cause nor permit the exportation of any materials from the Right of Way.

F. Licensee shall replace and maintain any soil disturbed during or because of work performed in conjunction with the Multiple Use Trail being sure the replaced soil is thoroughly compacted and the grade even with the adjacent surface of the ground.

G. Licensee shall bear the cost of any modifications to UTA's Tracks, other structures, communication facilities, catenary systems and wires, and other facilities or improvements required by the construction, use and/or existence of the Multiple Use Trail.

H. All remaining and new landscaping within the Multiple Use Trail, and pavements, fencing and other improvements installed with respect to the Multiple Use Trail shall be maintained by Licensee in a good and workmanlike manner and in a manner consistent with Licensee's other public trails or parkways. All maintenance shall be performed consistent with the conditions or standards as may be required by the laws, rules, regulations, ordinances or orders of applicable Governmental Authorities, and so as to ensure the safety of UTA property, adjacent properties, the Multiple Use Trail and the public invitees thereto. All bushes, trees, plants, and the like with respect to the Multiple Use Trail shall be maintained by Licensee so as not to cross the vertical plane created by the fence separating the Multiple Use Trail from other areas of the Right of Way. Any landscaping, bushes, trees, plants, and the like with respect to the Multiple Use Trail shall also be maintained by Licensee in a manner such that there is no interference with clearances, including clearances for line-of-sight and other visibility,-for freight and passenger operations or with rail safety requirements, all as determined by UTA in its sole discretion. Licensee shall remove or modify any landscaping or other vegetation not complying with this provision within five (5) calendar days of receiving written notice of such noncompliance. All obligations of Licensee under this paragraph shall be fulfilled at Licensee's sole expense.

I. As between the parties, Licensee shall be solely responsible for all patrolling, law enforcement, security and other protective measures as may be necessary for the safe operation of the Multiple Use Trail. Licensee shall cause its police force to respond to

incidents occurring on the Multiple Use Trail in a manner consistent with other locations within Licensee's jurisdiction.

ARTICLE 6. ACCESS TO RIGHT OF WAY FOR CONSTRUCTION, MAINTENANCE AND OTHER WORK

A. Except in the event of an emergency (as provided in Section B below), Licensee shall request permission from UTA at least ten days (or such shorter period as may be approved by UTA) prior to performing any construction, installation, maintenance, repair, renewal, modification, reconstruction, relocation and/or removal in or otherwise materially affecting the Right of Way. Licensee's request to access the Right of Way shall be specific as to the time, date and activities for which Licensee seeks permission. The request shall also include a summary of the method and manner in which the construction, installation, maintenance, repair, renewal, modification, reconstruction, relocation and/or removal will be performed. As part of the application process, UTA may require Licensee (and its contractors or other agents seeking access to the Right of Way) to attend any track access coordination meetings, safety training or other instruction as may be deemed necessary by UTA. Once granted, UTA's permission to enter the Right of Way shall be formalized in writing and delivered to Licensee. After permission has been granted, Licensee shall comply with all conditions, instructions and requirements of such permit and with all instructions or directions given by UTA including, if required, daily telephone notification to the applicable rail dispatch center prior to each entry into the Right of Way. All contact with UTA shall be coordinated through the person designated by UTA from time to time as set forth in Article XVI of this Agreement. Provided that Licensee complies with the provisions of this Section, UTA agrees not to unreasonably withhold, condition, or delay its approval of Licensee's request.

B. Licensee shall have the right to enter the Right of Way in the event of an emergency to make repairs necessary to protect against imminent and serious injury or damage to persons or property. Licensee shall take all precautions necessary to ensure that such emergency entry does not compromise the safety of any operations conducted in the Right of Way by UTA or Freight Operator. Licensee must notify the Emergency Access Manager of the emergency access and the work being performed prior to entering the Right of Way.

ARTICLE 7. PROTECTING RIGHT-OF-WAY DURING CONSTRUCTION AND OTHER WORK

During any construction, installation, maintenance, repair, renewal, modification, reconstruction, relocation and/or removal of or regarding the Multiple Use Trail, UTA and/or the Freight Operator may, in the event they deem necessary, arrange for training, flagging, lighting, flashing signal barricades or other protection as required by UTA, the Federal Railroad Administration or other Governmental Authorities. Any such protection furnished by UTA and/or the Freight Operator shall be at Licensee's sole cost and expense. UTA and/or Freight Operator may employ and furnish, at the expense of

Licensee, such flagmen and watchmen as may be reasonably necessary to protect passenger or freight operations and traffic during the progress of the work contemplated by this Agreement and during any work related to the Multiple Use Trail.

ARTICLE 8. IF WORK IS TO BE PERFORMED BY CONTRACTOR

If a contractor is to do any construction, installation, maintenance, repair, renewal, modification, reconstruction, relocation and/or removal work to be performed regarding the Multiple Use Trail, then Licensee shall require such contractor to execute UTA's Agreement With Contractor Form. Licensee acknowledges receipt of a copy of the form and understands its terms, provisions and requirements. Licensee shall inform its contractor or contractors of the requirement to execute this form and deliver the same to UTA prior to entry upon or the performance of any work inside the boundaries of the Right of Way or other UTA property. Under no circumstances shall Licensee's contractor be allowed on the Right of Way without first executing and delivering to UTA the Agreement With Contractor Form and providing the required proof of insurance.

ARTICLE 9. LICENSE FEE

A. UTA customarily assesses a standard administrative fee reflecting the clerical, administrative and handling expenses incurred in connection with the processing of this Agreement. The standard administrative fee has been waived consistent with the provisions of the Master Interlocal Agreement.

B. In consideration of the covenants and agreements to be kept, observed and performed by Licensee hereunder, UTA hereby grants Licensee a license to construction, installation, maintenance, repair, renewal, modification, reconstruction, relocation and/or removal of the Multiple Use Trail in the location shown and in conformity with the dimensions and specifications indicated on the attached print dated and marked Exhibit "A" (Exhibit "A" is attached hereto and hereby incorporated into and made a part of this Agreement by reference).

ARTICLE 10. RESTORATION OF UTA'S PROPERTY

A. In the event UTA authorizes Licensee to move or disturb any property of UTA (or that of any third party having permissive or prescriptive authority to be located in the Right of Way) in connection with the construction, installation, maintenance, repair, renewal, modification, reconstruction, relocation and/or removal of or regarding the Multiple Use Trail, Licensee shall, as soon as possible and at Licensee's sole cost and expense, restore such property to the identical condition as the same was in before such property was moved or disturbed.

B. Upon occasion of any damage or impairment to the Right of Way or other UTA property as the result of the actions of Licensee or any agent of Licensee, UTA may, in its sole discretion, proceed with repair of such damage or impairment with notice to Licensee. Licensee shall bear all reasonable costs and expenses incurred by UTA to

repair such damage or impairment. Costs incurred by UTA shall be subject to recovery by UTA in accordance with Article 18 of this Agreement.

ARTICLE 11. SAFETY

In addition to the provisions set forth herein, UTA shall have the right in its sole discretion to issue, and Licensee shall comply with, additional reasonable rules and regulations related to safety.

A. Except as may be immediately required for (and only at the actual time of) performance of physical construction of any work contemplated under this Agreement, Licensee shall not place, permit to be placed, erect, pile, store, stack, park, maintain or permit any line, building, platform, fence, gate, vehicle, car, pole or other structure, obstruction or material of any kind on the Right of Way, and Licensee shall not permit any of its contractors, subcontractors, agents or the public to do any of the above. Licensee shall keep the Multiple Use Trail and the immediately surrounding area clean and neat and free from combustible materials. Any equipment or material located on the Right of Way during construction shall only be allowed if in full compliance with all clearance standards and safety requirements of UTA and applicable Governmental Authorities.

B. Various Utilities and other crossings or encroachments exist on, over and under the surface of the Right of Way. Licensee shall properly investigate and determine the location of all Utilities and similar encroachments and shall not disturb or damage any Utilities or similar encroachments unless otherwise permitted by UTA and the relevant owner(s). In addition to the required investigation, Licensee shall have all Utilities in the area of the Multiple Use Trail blue-staked and clearly marked prior to any construction regarding the Multiple Use Trail. Licensee shall make arrangements for protection of all Utilities and other encroachments and shall commence no work on the Right of Way until all such protection has been accomplished.

C. Upon construction of the Multiple Use Trail, Licensee, at its sole cost and expense, will install markers identifying the location of Utilities constructed under the surface of the Multiple Use Trail. Licensee shall also install, at its sole cost and expense, such additional markers, signs, barriers or other improvements, of whatever character or nature, which UTA or the Freight Operator in their sole judgment may from time to time deem necessary or advisable in connection with the construction or operation of the Multiple Use Trail. Licensee shall install or erect any marker, sign or other improvement as may be required under this paragraph within 30 days of receiving written notice to such effect from UTA.

D. Licensee shall comply with, and shall require all contractors and all tiers of subcontractors to comply with, all applicable Governmental Authority regarding the safety of personnel and conservation of property in the Right of Way. The Licensee and all contractors and all tiers of subcontractors shall adhere to the UTA Construction Safety Manual as modified from time to time. In addition to other provisions set forth in the

UTA Construction Safety Manual, Licensee and its contractors and subcontractors shall adhere to provisions regarding: (i) to the extent applicable the procedures regarding access to the Right of Way and work to be performed proximate to the 750 Volt Overhead Contact System and underground return circuits; (ii) requirements that construction-orange vests or similar clothing be worn by all personnel performing construction, installation, maintenance, repair, renewal, modification, reconstruction, relocation and/or removal work within the Right of Way, including retro-reflective striping complying with appropriate ANSI or OSHA requirements for nighttime work; and (iii) OSHA and EPA requirements regarding the handling of any materials deemed to be Hazardous Materials.

ARTICLE 12. INDEMNITY

A. As additional consideration for this Agreement, Licensee agrees to protect, defend, release, indemnify and hold harmless UTA, and any affiliates, successors, contractors, officers, directors, agents and employees of UTA (the "UTA Indemnitees") from and against any and all Losses proximately caused by: (a) the prosecution of any construction, installation, maintenance, repair, renewal, modification, reconstruction, relocation and/or removal with respect to the Multiple Use Trail in or materially affecting the Right of Way by Licensee or any employees, principals, contractors or agents of Licensee; (b) negligence in the operation or use of the Multiple Use Trail by Licensee or any employees, principals, contractors or agents of Licensee; or (c) Licensee's breach of any provision of this Agreement.

B. Licensee acknowledges that the Right of Way is subject to prospective purchaser agreements and covenants not to sue that UTA has entered with the Utah Department of Environmental Quality and the United States Environmental Protection Agency. Pursuant to such agreements, UTA is required to characterize any excavated soil that appears to contain (or has the potential to contain) Hazardous Materials and to handle and dispose of such soil in compliance with applicable state and federal laws. Under these agreements, UTA is not required to excavate any soil except as required for its rail construction activities within its Right of Way. Accordingly, any excavation contemplated in this Agreement exposes UTA to potential environmental liability that would not otherwise be present. As consideration for the rights granted to Licensee hereunder, Licensee agrees to assume all potential liability and responsibility for, and to indemnify and hold UTA harmless with respect to, and Losses related to the characterization and removal of any Hazardous Materials discovered during the performance of any construction, installation, maintenance, repair, renewal, modification, reconstruction, relocation and/or removal pursuant to this Agreement. Licensee agrees to perform any such characterization and removal in full compliance with all applicable state and federal environmental laws.

C. Except to the extent that UTA's negligence was a contributing factor to losses incurred by Licensee, Licensee hereby releases UTA from, and agrees not to seek recourse against UTA with respect to, any claims, damages, fees, expenses or other losses proximately caused by third persons including, without limitation, third persons having licenses or other interests in the Right of Way.

D. The provisions of this Article shall survive the termination of this Agreement.

ARTICLE 13. INSURANCE

Licensee shall, at its sole cost and expense, obtain (and cause any contractors it employs to obtain) the insurance described in Exhibit "B" (Exhibit "B" is attached hereto and hereby incorporated into and made a part of this Agreement by reference). Licensee will also provide (and cause any contractors it employs to provide) to UTA a Certificate of Insurance, identifying UTA Contract Number, issued by its insurance carrier confirming the existence of such insurance.

ARTICLE 14. CLAIMS AND LIENS FOR LABOR AND MATERIALS: TAXES

A. Licensee shall fully pay for all materials joined or affixed to the Right of Way in connection with the Multiple Use Trail, and for all labor performed with respect to the Multiple Use Trail. Licensee shall not permit or suffer any mechanic's or materialman's lien of any kind or nature to be enforced against the Right of Way for any work done or materials furnished thereon at the instance or request or on behalf of Licensee.

B. Licensee shall promptly pay or discharge all taxes, charges and assessments assessed or levied upon, in respect to, or on account of the Multiple Use Trail to prevent the same from becoming a charge or lien upon the Right of Way and so that any taxes, charges and assessments levied upon or with respect to such property shall not be increased because of the Multiple Use Trail or any improvements, appliances, or fixtures connected therewith.

ARTICLE 15. TERMINATION

A. UTA may forthwith terminate this Agreement and all rights of Licensee and all others hereunder if. (1) Licensee affirmatively abandons the Multiple Use Trail or ceases to use the Multiple Use Trail in an active and substantial way for any continuous period of twenty-four months; (2) Licensee continues in default in the performance of any covenant, term or condition contained in this Agreement for a period of 45 days after written notice from UTA to Licensee specifying such default unless Licensee is diligently proceeding to cure any noticed default and such default requires additional time to effect; provided that if a default by Licensee is deemed by UTA to be dangerous or hazardous, UTA may immediately suspend its performance under this Agreement during the 45-day default cure period and terminate this Agreement at the end of such period if there is no cure; and provided, however, that UTA shall have no obligation to terminate this Agreement after giving notice of default and may continue to perform hereunder without terminating this Agreement and without waiving the right to terminate. No additional notice of such termination or declaration of forfeiture shall be required and UTA may at

once reenter upon the premises and repossess itself thereof and remove all persons therefrom or may resort to an action of forcible entry and detainer, or any other action, to recover the same or obtain appropriate relief, including without limitation, removal of any portion of the Multiple Use Trail; or (3) UTA, in its sole discretion, reasonably determines that the continued use of the Right of Way by Licensee interferes with an expansion of the passenger or freight operations to occur on the Right of Way or with the safe operation of the Right of Way by UTA, freight Operator or other permissive or prescriptive users of the Right of Way. Termination under this paragraph shall occur 45 days after UTA delivers written notice to Licensee of UTA's determination that the Multiple Use Trail must be removed pursuant to UTA's exercise of rights hereunder.

B. Termination of this Agreement for any reason shall not affect any of the rights or obligations of the parties hereto which may have accrued hereunder, or liabilities, accrued or otherwise, which may have arisen hereunder prior thereto.

ARTICLE 16. SURRENDER UPON TERMINATION

Upon termination of this Agreement howsoever, Licensee shall, at Licensee's sole cost and expense, remove the Multiple Use Trail from the Right of Way and shall restore, to the satisfaction of UTA, all portions of the Right of Way subject to the License to at least as good a condition as such were in at the time that Licensee first entered the Right of Way. If Licensee fails to do the foregoing within a reasonable time, UTA may, at its option, perform such removal and restoration work at the expense of Licensee. Licensee shall reimburse UTA for the costs incurred in any restoration or removal work performed under this Article within 30 days after receipt of the bill therefore. In the event UTA removes the Multiple Use Trail pursuant to this Article, UTA shall in no manner be liable to the Licensee for any damage sustained by Licensee for or on account thereof, and such removal and restoration shall in no manner prejudice or impair any other right of action, including the recovery of damages, that UTA may have against the Licensee. The provisions of this Article shall survive the termination of this Agreement.

ARTICLE 17. AGREEMENT NOT TO BE ASSIGNED

Licensee shall not assign this Agreement, in whole or in part, or any rights herein granted, without the written consent of UTA, and it is agreed that any transfer or assignment or attempted transfer or assignment of this Agreement or any of the rights herein granted, whether voluntary, by operation of law, or otherwise, without such consent in writing, shall be absolutely void and, at the option of UTA, shall terminate this Agreement.

ARTICLE 18. SUCCESSORS AND ASSIGNS

Subject to the provisions of the previous Article hereof, this Agreement shall be binding upon and inure to the benefit of the parties hereto, their heirs, executors, administrators, successors and assigns.

ARTICLE 19. SEVERABILITY

This Agreement is executed by the parties under current interpretation of any and all applicable federal, state, county, municipal, or other local statutes, ordinances, or laws. Furthermore, each and every separate division hereof shall have independent and severable status from each other division, or combination thereof, for the determination of legality, so that if any separate division herein is determined to be unconstitutional, illegal, in violation of trade or commerce, in contravention of public policy, void, invalid or unenforceable for any reason, that separate division shall be treated as a nullity but such holding or determination shall have no effect upon the validity or enforceability of each and every other division, or other combination thereof.

ARTICLE 20. NOTICES

Except where other forms of notice are specifically provided under the provisions of this Agreement, all notices, requests, demands and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested, or sent by overnight carrier to the addresses set forth herein. Addresses for notice may be changed by giving ten (10) days written notice of the change in the manner set forth herein.

In the case of a notice or communication to UTA:

Attention:

Utah Transit Authority
Property Administrator
P.O. Box 30810,
Salt Lake City, Utah 84130-0810

With Copy to:

Utah Transit Authority
General Counsel's Office
P.O. Box 30810
Salt Lake City, Utah 84130-0810.

In the case of a notice or communication to Licensee:

Draper City Corporation
Attention: City Manager
1020 East Pioneer Road
Draper, Utah 84020

With Copy to:

Draper City Corporation
Attention: City Attorney
1020 East Pioneer Road
Draper, Utah 84020

Or addressed in such other way with respect to any party as that party may, from time to time, designate in writing dispatched as provided in this Article. All notices, demands, requests, or other communications under this Agreement shall be deemed properly served and to have been duly given: (i) on the date of delivery, if delivered personally on the party to whom notice is given; or (ii) on receipt, if mailed to the party to whom notice is to be given by registered or certified mail, return receipt requested, postage prepaid and properly addressed.

ARTICLE 21. NO IMPLIED WAIVER.

The waiver by UTA of Licensee's breach of any condition, covenant or agreement herein contained shall not impair any future ability of UTA to avail itself of any remedy or right set forth in this Agreement. Neither the right of supervision by UTA, nor the exercise or failure to exercise such right, nor the approval or failure to disapprove, nor the election by UTA to repair or reconstruct all or any part of the work contemplated by this Agreement shall be deemed a waiver of any of the obligations of Licensee contained or set forth in this Agreement.

ARTICLE 22. FUTURE PROJECT PHASING

This Agreement shall constitute an understanding by the Licensee of the future phasing of this Multiple Use Trail and of other certain projects adjacent to this project that affect or are affected by the limits of this project. The work identified in this agreement constitutes Phase I of a two phase project. Phase I consists of four components. The four components of Phase I are (i) the design and construction of the trail as outlined in this agreement; (ii) this component consists of integrating the trail design as outlined in this project with future frontage road and I-15 needs; (iii) this component consists of integrating the design of the light rail line and the trail while recognizing the future expansion of I-15 and (iv) consists of the full reconstruction of I-15. Phase II consists the completion of the Multiple Use Trail from the end trail of Phase I to the Salt Lake-Utah County Line.

ARTICLE 23. ENTIRE AGREEMENT - COUNTERPARTS

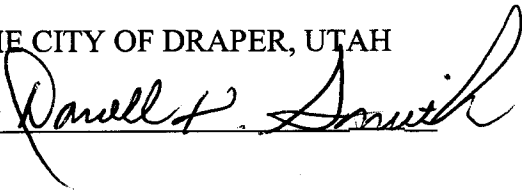
This Agreement shall constitute the entire agreement and understanding of the parties with respect to the subject matter hereof, and shall supersede all offers, negotiations and other agreements with respect thereto. Any amendment to this Agreement must be in writing and executed by the authorized representatives of each party. This Agreement may be executed in any number of counterparts and by each of the parties hereto on

separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument. Any signature page of this Agreement may be detached from any counterpart and reattached to any other counterpart hereof. The facsimile transmission of a signed original of this Agreement or any counterpart hereof and the retransmission of any signed facsimile transmission hereof shall be the same as delivery of an original.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in duplicate as of the date first herein written.

THE CITY OF DRAPER, UTAH

By



Mayor of Draper City

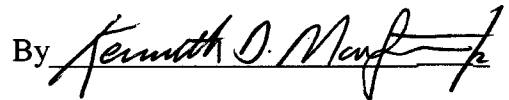
UTAH TRANSIT AUTHORITY

By



John M. English,
General Manager

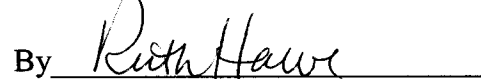
By



Kenneth D. Montague, Jr., Dir.
Finance and Administration

APPROVED AS TO FORM:

By



UTA Legal Counsel

Recommended:

C. L. BOYAN

UTA Engineering

EXHIBIT "A"
DESIGN PLANS

[Attached]

EXHIBIT "B"
INSURANCE REQUIREMENTS

Licensee shall, at its sole cost and expense, procure and maintain during the life of this Agreement the following insurance coverage:

A. Commercial general liability policy providing coverage for death, personal injury and property damage with a combined single limit of at least \$2 million each occurrence or claim and an aggregate limit of at least \$4 million. The policy shall contain broad form contractual liability insurance covering the indemnity obligations assumed by Licensee in the Agreement. Exclusions for railroads (except where the Multiple Use Trail is in all places more than 50 feet from any railroad tracks, bridges, trestles, roadbeds, terminals, underpasses or crossings), and explosion, collapse and underground hazard shall be removed. Coverage provided on a "claims made" form shall provide for at least a two-year extended reporting and discovery period if (a) the coverage changes from a claims made form to an occurrence form, (b) there is a lapse/cancellation of coverage, or (c) the succeeding claims made policy retroactive date is different for the expiring policy.

B. Automobile liability insurance providing bodily injury, property damage and uninsured vehicles coverage with a combined single limit of at least \$2 million each occurrence or claim. This insurance shall cover all motor vehicles including hired and non-owned, and mobile equipment if excluded from coverage under the commercial general liability insurance.

C. Worker's compensation and employer's liability insurance covering Licensee's statutory liability under the laws of the State of Utah. If Licensee is self-insured, evidence of State approval must be provided.

Licensee and their insurers shall endorse the required insurance policy(ies) to waive their right of subrogation against UTA. Licensee's insurance shall be primary with respect to any insurance carried by UTA. Licensee's policy(ies) shall contain a provision that the insurance company will furnish UTA 30 days' advance written notice of any cancellation or lapse, or the effective date of any reduction in the amount or scope of coverage.

The required insurance policy(ies) shall be written by a reputable insurance company with a current AM Best's Insurance Guide Rate of A better, or as may otherwise be acceptable to UTA. Such insurance company shall be authorized to transact business in the State of Utah.

The fact that insurance is obtained by Licensee shall not be deemed to release or diminish the liability of Licensee including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by UTA shall not be limited by the amount of the required insurance coverage.